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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/398,842	09/17/1999	TERRILL A. YOUNG	6900R	1564

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EXAMINER

WEBB, JAMISUE A

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 11/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/398,842

Applicant(s)

YOUNG ET AL.

Examiner

Jamisia A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-3, and 5-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roe et al (6,120,783) in view of Gillespie et al. (5,783,503), and Shultz et al. (6,103,647).

4. With respect to Claims 1, 7, 19 and 20: Roe discloses an absorbent article (20) with a backsheet (42), a topsheet (38) and an absorbent core (48) located there between. Roe discloses the use of barrier cuffs (62) with a proximal edge (64), a distal edge (66), where proximal edge is secured to the outercover and uses spacing elastic elements (76). Roe discloses the use of an effective amount of skin care composition provided on the carrier cuffs (see claim 7).

5. Roe, as disclosed above, teaches the use of the barrier cuffs being spunbond polypropylene (col. 12, line 66 to col. 13, line 26), but fails to teach the use of a fiber having a denier of less than 1.3.

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6. Gillespie teaches the use of microdenier fibers with a denier in the range from 0.1 to 0.3 denier per filament (column 6, lines 28-31) and can be made from polypropylene (column 5, lines 1-16) and are used in spunbond products (column 2, lines 4-8) and can be used for such things as topsheets, backsheets and leg cuffs in diapers (column 7, lines 11-15).
7. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the barrier cuffs of Roe be made from the microdenier fibers of Gillespie, in order to produce nonwovens of surprising strength, barrier and cover. (see Gillespie, abstract)
8. Roe and Gillespie disclose the use of polypropylene microdenier fibers, but fail to disclose the use of metallocene polypropylene spunbond fibers.
9. Shultz discloses the use of metallocene polymers, such as polypropylene, and can be developed by spunbonding (column 9, lines 25-32; column 10 lines 63-65).
10. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the polypropylene fibers of Roe and Gillespie to be metallocene polypropylene fibers, as disclosed by Shultz, in order to provide a fabric that has excellent barrier, breathability, elasticity and a pleasing hand. (see Shultz column 9).
11. With respect to Claims 2, 5 and 6: Roe discloses the barrier cuffs being made using spunbonded techniques, which does not have any meltblown fibers. (column 12, line 66 to column 13, line 26).
12. With respect to Claim 3: Roe discloses the topsheet and the barrier cuffs are made from the same element (column 13, lines 59-65) and discloses the topsheet having a basis weight of 14 grams per square meter (column 11, lines 1-12).
13. With respect to Claim 8: see Roe claim 13.
14. With respect to Claim 9: see Roe Claim 8.

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15. With respect to Claim 10: see Roe Claim 9.
16. With respect to Claim 11: see Roe Claim 10.
17. With respect to Claim 12: see Roe Claim 12.
18. With respect to Claim 13-16: Roe discloses a skin care composition being placed either the body facing surface, or the garment facing surface and capable of transferring from the garment facing surface to the body facing surface (column 8, line 54 to column 9, line 22).
19. With respect to Claim 17: Roe discloses the use of gasket cuffs (56).
20. Claims 1-2, 5, 6, and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawson (4,695,278) in view of Gillespie et al. (5,783,503), and Shultz et al. (6,103,647).
21. With respect to Claims 1 and 19: Lawson discloses an absorbent article (20) with a backsheet (42), a topsheet (38) and an absorbent core (48) located there between. Lawson discloses the use of barrier cuffs (62) with a proximal edge (64), a distal edge (66), where proximal edge is secured to the outercover (Figure 3) and uses spacing elastic elements (76).
22. Lawson, as disclosed above, teaches the use of the barrier cuffs being spunbond polypropylene (column 9, lines 1-12), but fail to teach the use of a fiber having a denier of less than 1.3.
23. Gillespie teaches the use of microdenier fibers with a denier in the range from 0.1 to 0.3 denier per filament (column 6, lines 28-31) and can be made from polypropylene (column 5, lines 1-16) and are used in spunbond products (column 2, lines 4-8) and can be used for such things as topsheets, backsheets and leg cuffs in diapers (column 7, lines 11-15).
24. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the barrier cuffs of Lawson be made from the microdenier fibers of Gillespie, in order to produce nonwovens of surprising strength, barrier and cover. (see Gillespie, abstract).

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25. Roe and Gillespie disclose the use of polypropylene microdenier fibers, but fail to disclose the use of metallocene polypropylene spunbond fibers.
26. Shultz discloses the use of metallocene polymers, such as polypropylene, and can be developed by spunbonding (column 9, lines 25-32; column 10 lines 63-65).
27. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the polypropylene fibers of Roe and Gillespie to be metallocene polypropylene fibers, as disclosed by Shultz, in order to provide a fabric that has excellent barrier, breathability, elasticity and a pleasing hand. (see Shultz column 9).
28. With respect to Claim 2, 5 and 6: Lawson discloses that the barrier cuffs may be spunbonded, therefore no (0%) meltblown fibers are used.
29. With respect to Claim 17: Lawson discloses the use of gasket cuffs (56).
30. With respect to Claim 18: Lawson discloses the topsheet and the barrier cuffs are made from the same element (column 9, lines 52-57).

Response to Amendment

31. With respect to applicant's argument that there is no motivation to combine Roe and Gillespie due to the fact that Gillespie gives a list of "suitable polymers for practice", therefore is not enabling with regard to the choice of polymer for producing a nonwoven cuff, and does not lead one of ordinary skill in the art to use metallocene polymers: Gillespie discloses the use of micro-denier fibers of 0.1-0.3 denier, which provides a nonwoven with excellent barrier, cover and strength. Gillespie teaches the fibers can be made from polypropylene. Shultz discloses a barrier fabric that not only has excellent barrier, cover and strength, but also has excellent elasticity, and uses a metallocene polypropylene as one of the preferred materials. Gillespie discloses that polypropylene can be used as the fiber material, therefore one of ordinary skill in the art would be able to, and it would be obvious to, combine the

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Gillespie and Schultz references to teach a barrier cuff comprising of a material that is made of metallocene polypropylene and has micro-denier fibers. Schultz is used to provide the fibers with elasticity (by the metallocene process), and Gillespie is used to provide the fibers with barrier, cover and strength (the micro-denier filaments).

32. With respect to the cuff member comprising a nonwoven consisting essentially of: the word comprising meaning it can include more than one nonwovens, and as long as one of the nonwovens is essentially spunbond, then the claim limitation is satisfied. The Shultz reference discloses a three layer laminate two of the layers consisting of spunbond fibers. It is the examiner's position that each layer in the laminate is a nonwoven, therefore Shultz discloses a material *comprising* a nonwoven that is *consisting* of spunbond metallocene polypropylene.

33. The applicant has argued the remaining rejections based on the argument that one of ordinary skill in the art would not be motivated to combine Gillespie and Schultz. As stated above, the examiner considers the combination to be proper, therefore the rejections stand as stated above.

Conclusion

34. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from

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the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703)308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw

November 4, 2002


DENNIS RUHL
PRIMARY EXAMINER